

In reply to the Office Action of February 11, 2008 ("Action"), Applicant submits the following remarks.

In the course of preparing a reply to the Action, Applicant was unable to properly address the issues raised by the Examiner because the Examiner's comments were not clear. More particularly, Applicant was unable to address the Examiner's §102 rejection of independent claims 9, 14, and 17.

In rejecting claims 9, 14, and 17, the Examiner alleges that the claims are anticipated by *Furuike* (U.S. Patent No. 6,947,944).¹ In this regard, the Examiner states:

Regarding claims 1, 7-9, 14, 16 and 17, *Furuike* discloses a storage system, method and program that stores records and ancillary data, comprising (fig.1):

maintaining at the data storage system, information for distinguishing between extents of a logical device (fig. 2, item 7, controller), the logical device having a first set of extents designated for storage of database records and a second set of extents designated for storage of ancillary data (fig. 2, item 11 database definition file [comprises a plurality of rules] and classify, item 7, see col. 4, lines 20-24); and

(Note: data other than records is equated with records that are not searched classified as such)

determining that target location is on an extent designated for storage of a record and not on an extent that is designated for storage of ancillary data, whereby the record is written only to an extent that is designated for storage of a record (fig. 2, item 10, col. 5, lines 29-50) and outputting data (fig. 6, step C8, output)²

However, the Examiner's remarks above are related only to the limitations of claims 1 and 16. As Applicant stated in the Reply filed on December 5, 2007, claims 9, 14 and 17 have limitations that differ from those of independent claims 1 and 16. Because the Examiner has advanced reasons that are pertinent only to the limitations of independent claims 1 and 16, and because, as a result, the limitations contained in claims 9, 14, and 17 have not been examined, Applicant respectfully submits that the Action fails to comply with Rule 1.104(c)(2), which states:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as

¹ Page 4, paragraph 1, of Action.

² Page 4, paragraphs 2-4, of Action.

practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. (emphasis added)

In view of the above, Applicant respectfully submits that the Examiner has not “clearly explained” the “pertinence” of *Furuike* in rejecting claims 9, 14, and 17.

As a consequence, Applicant is unable to properly reply to the Action, and requests suspension of the substantive issues until the Examiner has withdrawn the finality of the Action, and issued a corrected Action.

Any circumstance in which Applicant has addressed certain comments of the Examiner does not mean that Applicant concedes other comments of the Examiner.

No fees are believed due with this paper. Please apply any charges or credits to deposit account 06 -1050 referencing Attorney Docket No. 07072-161001.

Respectfully submitted,

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